



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

PINE CREEK MEDICAL CENTER
9032 HARRY HINES BLVD
DALLAS TX 75235

Respondent Name

New Hampshire Insurance Co

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-10-1158-01

MFDR Date Received

October 21, 2009

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary Dated October 21, 2009: "Carrier failed to notify HCP of any contractual agreement, therefore, we request that this claim be paid in accordance with TDI-DWC Medical Fee Guidelines."

Amount in Dispute: \$11,456.39

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated November 9, 2009: "According to Provider's Position Statement, Provider appears to be alleging that it was not given the notice required by rule 133.4 that other persons would be given access to Aetna's fee arrangement with Provider. Therefore, Provider argues, its bill should be paid in accordance with the Division's Outpatient Hospital Fee Guideline, pursuant to rule 133.4(g). Contrary to Provider's assertion, Provider was properly notified in accordance with rule 133.4."

Respondent's Position Summary Dated November 19, 2009: "Provider was given the notice required by rule 133.4. Therefore, reimbursement in this case is governed by Provider's contract with Aetna."

Response Submitted by: Stone Loughlin & Swanson, LLP, 3508 Far West Blvd., Suite 200, Austin, Texas 78731

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
October 23, 2008	Outpatient Hospital Services	\$11,456.39	\$11,068.29

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, sets out the reimbursement guidelines for facility services provided in an outpatient acute care hospital.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated January 9, 2008

- 100 – ANY NETWORK REDUCTION IS IN ACCORDANCE WITH THE NETWORK REFERENCED ABOVE
- 112-001 THE BILL HAS BEEN REIMBURSED ACCORDING TO THE PROVIDER'S CONTRACT WITH: AETNA
- 45 – Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement.
- 595-001 THE REIMBURSEMENT AMOUNT IS BASED ON THE MEDICARE REIMBURSEMENT PLUS THE PERCENTAGE INCREASE SPECIFIED BY THE STATE.
- 59 – Processed based on multiple or concurrent procedure rules. (For example multiple surgery or diagnostic Imaging, concurrent anesthesia.)
- 607 – REIMBURSEMENT FOR THIS PROCEDURE HAS BEEN CALCULATED ACCORDING TO THE MULTIPLE PROCEDURE RULE.
- 670-007 SEPARATE REIMBURSEMENT HAS BEEN MADE FOR IMPLANTABLES
- W1 – Workers Compensation State Fee Schedule Adjustment

Explanation of benefits dated May 6, 2009

- 100 – ANY NETWORK REDUCTION IS IN ACCORDANCE WITH THE NETWORK REFERENCED ABOVE
- 112-001 THE BILL HAS BEEN REIMBURSED ACCORDING TO THE PROVIDER'S CONTRACT WITH: AETNA
- 45 – Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement.
- 595-001 THE REIMBURSEMENT AMOUNT IS BASED ON THE MEDICARE REIMBURSEMENT PLUS THE PERCENTAGE INCREASE SPECIFIED BY THE STATE.
- 59 – Processed based on multiple or concurrent procedure rules. (For example multiple surgery or diagnostic Imaging, concurrent anesthesia.)
- 607 – REIMBURSEMENT FOR THIS PROCEDURE HAS BEEN CALCULATED ACCORDING TO THE MULTIPLE PROCEDURE RULE.
- 670-007 SEPARATE REIMBURSEMENT HAS BEEN MADE FOR IMPLANTABLES
- W1 – Workers Compensation State Fee Schedule Adjustment
- W4 – No additional reimbursement allowed after review of appeal/reconsideration.

Issues

1. Are the disputed services subject to a contractual agreement between the parties to this dispute?
2. What is the applicable rule for determining reimbursement for the disputed services?
3. What is the recommended payment amount for the services in dispute?
4. Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier reduced or denied disputed services with reason code 45 – “CHARGES EXCEED YOUR CONTRACTED/LEGISLATED FEE ARRANGEMENT.” Review of the submitted information found insufficient documentation to support that the disputed services were subject to a contractual fee arrangement between the parties to this dispute. Nevertheless, on October 6, 2010, the Division requested the respondent to provide a copy of the referenced contract as well as documentation to support notification to the healthcare provider, as required by 28 Texas Administrative Code §133.4, that the insurance carrier had been given access to the contracted fee arrangement. Review of the submitted information finds that the documentation does not support notification to the healthcare provider in the time and manner required. The Division concludes that, pursuant to §133.4(g), the insurance carrier is not entitled to pay the health care provider at a contracted fee. Consequently, per §133.4(h), the disputed services will be reviewed for payment in accordance with applicable Division rules and fee guidelines.
2. This dispute relates to facility services performed in an outpatient hospital setting with reimbursement subject to the provisions of 28 Texas Administrative Code §134.403, which requires that the reimbursement calculation used for establishing the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register with the application of minimal modifications as set forth in the rule. Per §134.403(f)(1), the sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 200 percent, unless a facility or surgical implant provider requests separate reimbursement of implantables. Review of the submitted documentation finds that separate reimbursement for implantables was not requested.

3. Under the Medicare Outpatient Prospective Payment System (OPPS), each billed service is assigned an Ambulatory Payment Classification (APC) based on the procedure code used, the supporting documentation and the other services that appear on the bill. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC per encounter. Payment for ancillary and supportive items and services, including services that are billed without procedure codes, is packaged into payment for the primary service. A full list of APCs is published quarterly in the OPPS final rules which are publicly available through the Centers for Medicare and Medicaid Services (CMS) website. Reimbursement for the disputed services is calculated as follows:
- Procedure code 29807, date of service October 23, 2008, has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 100%. These services are classified under APC 0042, which, per OPPS Addendum A, has a payment rate of \$2,911.27. This amount multiplied by 60% yields an unadjusted labor-related amount of \$1,746.76. This amount multiplied by the annual wage index for this facility of 0.9816 yields an adjusted labor-related amount of \$1,714.62. The non-labor related portion is 40% of the APC rate or \$1,164.51. The sum of the labor and non-labor related amounts is \$2,879.13. Per 42 Code of Federal Regulations §419.43(d) and Medicare Claims Processing Manual, CMS Publication 100-04, Chapter 4, §10.7.1, if the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of \$1,575, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.338. This ratio multiplied by the billed charge of \$2,171.48 yields a cost of \$733.96. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for these services of \$2,879.13 divided by the sum of all APC payments is 42.29%. The sum of all packaged costs is \$7,168.75. The allocated portion of packaged costs is \$3,032.01. This amount added to the service cost yields a total cost of \$3,765.97. The cost of these services exceeds the annual fixed-dollar threshold of \$1,575. The amount by which the cost exceeds 1.75 times the OPPS payment is \$0.00. The total APC payment for this line is \$2,879.13. This amount multiplied by 200% yields a MAR of \$5,758.26.
 - Procedure code 29826, date of service October 23, 2008, has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. These services are classified under APC 0042, which, per OPPS Addendum A, has a payment rate of \$2,911.27. This amount multiplied by 60% yields an unadjusted labor-related amount of \$1,746.76. This amount multiplied by the annual wage index for this facility of 0.9816 yields an adjusted labor-related amount of \$1,714.62. The non-labor related portion is 40% of the APC rate or \$1,164.51. The sum of the labor and non-labor related amounts is \$2,879.13. Per 42 Code of Federal Regulations §419.43(d) and Medicare Claims Processing Manual, CMS Publication 100-04, Chapter 4, §10.7.1, if the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of \$1,575, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.338. This ratio multiplied by the billed charge of \$2,171.42 yields a cost of \$733.94. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for these services of \$1,439.57 divided by the sum of all APC payments is 21.15%. The sum of all packaged costs is \$7,168.75. The allocated portion of packaged costs is \$1,516.01. This amount added to the service cost yields a total cost of \$2,249.95. The cost of these services exceeds the annual fixed-dollar threshold of \$1,575. The amount by which the cost exceeds 1.75 times the OPPS payment is \$0.00. The total APC payment for this line, including multiple-procedure discount, is \$1,439.57. This amount multiplied by 200% yields a MAR of \$2,879.14.
 - Procedure code 29824, date of service October 23, 2008, has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. These services are classified under APC 0041, which, per OPPS Addendum A, has a payment rate of \$1,833.13. This amount multiplied by 60% yields an unadjusted labor-related amount of \$1,099.88. This amount multiplied by the annual wage index for this facility of 0.9816 yields an adjusted labor-related amount of \$1,079.64. The non-labor related portion is 40% of the APC rate or \$733.25. The sum of the labor and non-labor related amounts is \$1,812.89. Per 42 Code of Federal Regulations §419.43(d) and Medicare Claims Processing Manual, CMS Publication 100-04, Chapter 4, §10.7.1, if the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of \$1,575, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.338. This ratio multiplied by the billed charge of \$2,171.42 yields a cost of \$733.94. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for

these services of \$906.45 divided by the sum of all APC payments is 13.32%. The sum of all packaged costs is \$7,168.75. The allocated portion of packaged costs is \$954.58. This amount added to the service cost yields a total cost of \$1,688.52. The cost of these services exceeds the annual fixed-dollar threshold of \$1,575. The amount by which the cost exceeds 1.75 times the OPPS payment is \$102.23. 50% of this amount is \$51.12. The total APC payment for this line, including outlier payment and multiple-procedure discount, is \$957.57. This amount multiplied by 200% yields a MAR of \$1,915.13.

- Procedure code 29828, date of service October 23, 2008, has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. These services are classified under APC 0042, which, per OPPS Addendum A, has a payment rate of \$2,911.27. This amount multiplied by 60% yields an unadjusted labor-related amount of \$1,746.76. This amount multiplied by the annual wage index for this facility of 0.9816 yields an adjusted labor-related amount of \$1,714.62. The non-labor related portion is 40% of the APC rate or \$1,164.51. The sum of the labor and non-labor related amounts is \$2,879.13. Per 42 Code of Federal Regulations §419.43(d) and Medicare Claims Processing Manual, CMS Publication 100-04, Chapter 4, §10.7.1, if the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of \$1,575, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.338. This ratio multiplied by the billed charge of \$2,171.42 yields a cost of \$733.94. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for these services of \$1,439.57 divided by the sum of all APC payments is 21.15%. The sum of all packaged costs is \$7,168.75. The allocated portion of packaged costs is \$1,516.01. This amount added to the service cost yields a total cost of \$2,249.95. The cost of these services exceeds the annual fixed-dollar threshold of \$1,575. The amount by which the cost exceeds 1.75 times the OPPS payment is \$0.00. The total APC payment for this line, including multiple-procedure discount, is \$1,439.57. This amount multiplied by 200% yields a MAR of \$2,879.14.
 - Procedure code 20926, date of service October 23, 2008, has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. These services are classified under APC 0135, which, per OPPS Addendum A, has a payment rate of \$288.30. This amount multiplied by 60% yields an unadjusted labor-related amount of \$172.98. This amount multiplied by the annual wage index for this facility of 0.9816 yields an adjusted labor-related amount of \$169.80. The non-labor related portion is 40% of the APC rate or \$115.32. The sum of the labor and non-labor related amounts is \$285.12. The cost of these services does not exceed the annual fixed-dollar threshold of \$1,575. The outlier payment amount is \$0. The total APC payment for this line, including multiple-procedure discount, is \$142.56. This amount multiplied by 200% yields a MAR of \$285.12.
 - Procedure code 64417, date of service October 23, 2008, is unbundled. Per Medicare policy, payment for this service is included in the payment for other services billed on the same claim. Separate payment is not recommended.
 - Procedure code 64418, date of service October 23, 2008, is unbundled. Per Medicare policy, payment for this service is included in the payment for other services billed on the same claim. Separate payment is not recommended.
4. The total allowable reimbursement for the services in dispute is \$13,716.79. This amount less the amount previously paid by the insurance carrier of \$2,648.50 leaves an amount due to the requestor of \$11,068.29. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$11,068.29.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$11,068.29, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

_____	_____	February 28, 2013
Signature	Medical Fee Dispute Resolution Officer	Date

_____	_____	February 28, 2013
Signature	Medical Fee Dispute Resolution Manager	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.